

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.NO. 2649 OF 2004

-

26th September, 2005.

Between:

Vasanth Salvi ...Petitioner

A N D

District Collector, Ananthapur and Others ...Respondents

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

W.P.NO. 2649 OF 2004

-

ORDER:

-

1. This writ petition has been filed by the petitioner with a prayer to issue appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in dispossessing the petitioner from the land in Survey No. 234 admeasuring Ac. 4-53 cents situated at Pamidi village and mandal, Ananthapur District without following due process of law as illegal and arbitrary.

2. The petitioner claims that he is an ex-serviceman. An extent of Ac.4-53 has been allotted to him by the Tahsildar under proceeding L.Dis.No. 845/74/D3, dated 13-6-1974. When the respondents tried to dispossess him without following due process of law, he has chosen to file writ petition by invoking jurisdiction under Article 226 of the Constitution of India.

3. The Respondents filed counter affidavit. It is stated in the counter affidavit that the petitioner has been granted permission to cultivate the land for one year only for the Fasli year 1384 i.e. from 1-7-1974 to 30.6.1975. After expiry of the temporary permission of one year, no further permission has been granted to the petitioner to continue to be in possession of the property. It is further stated in the counter affidavit that the property has been resumed by the respondents after serving notice to the petitioner under the provisions of A.P. Encroachment Act. Para 6 of the counter affidavit needs to be noted and it is thus;

“In reply to para 6 of the petitioner’s affidavit it is submitted that, it is incorrect to say that the petitioner has spent huge amounts for raising Jama trees as they are only in tender stage and not fruits bearing trees. It is also incorrect to say that the petitioner is eking out livelihood by raising Jama Trees in the said land. The petitioners application for assignment of the land as per his eligibility in accordance with rules will be considered. But, he cannot ask for particular land to be assigned to him. As per the availability of the land his application will be considered.”

4 .Heard the learned for the petitioner and learned Government Pleader for Assignment appearing for the respondents.

5. The learned counsel for the petitioner submits that the petitioner has not been served with any notice, either under the Land Encroachment Act or any other Act requiring him to vacate the premises.

6 .Whereas the learned Government Pleader for Assignment asserts that the proceedings have been initiated and necessary orders have been passed and the land has been resumed on 7-2-2004.

7. In view of the rival contentions of the parties an order came to be passed on 19-9-2004 directing the respondents to place on record the proceedings issued under Land Encroachment Act. In pursuance of the direction, the respondents placed on record the proceedings issued under Land Encroachment Act. It is explicit from the record that the land has been resumed from the petitioner and the petitioner is no more in possession of the property.

8. In that view of the matter, no relief can be granted to the petitioner. However, the learned counsel for the petitioner submits that the petitioner is an ex-service man and he submitted an application for allotment of land and his application is required to be considered in accordance with the Rules and guidelines in force.

9. Per contra, it is submitted by the learned Government Pleader for Assignment that his request for allotment of lands in Survey No. 233 and 234 has been negated vide proceedings of the Collector bearing No. 3593/2000 (E3), dated 28-1-2002 and the same has been placed on record. It appears the petitioner sought particular portion of the land in particular survey number and the said request has been rejected. But, rejection order does not prevent him from making a fresh application for allotment of land under ex-service men quota.

10. In that view of the matter, the writ petition is disposed of giving liberty to the petitioner to make an application to the respondents for allotment of any other land under ex-service men quota and on such application being made, the respondents have to consider the same according to rules and guidelines in force and pass appropriate orders within two months from the date of the filing of the application by the petitioner. No order as to costs.

B.Seshasayana Reddy, J.

26th September, 2005.

KM

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

W.P.NO. 2649 OF 2004

26th September, 2005.

-

-